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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10	JEFFREY S. L. CHEAH, Individually and On)	Case No. 16-cv-01253-WHO
11	Behalf of All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
12	Plaintiff,)	
)	STIPULATION AND ORDER FOR THE
13	v.)	ADJOURNMENT OF THE INITIAL
)	CASE MANAGEMENT CONFERENCE
14	AFFYMETRIX, INC., JAMI DOVER)	
15	NACHTSHEIM, FRANK WITNEY, NELSON)	Judge: Honorable William H. Orrick
16	C. CHAN, GARY S. GUTHART, RICCARDO)	
17	PIGLIUCCI, MERILEE RAINES, ROBERT H.)	
	TRICE, THERMO FISHER SCIENTIFIC, INC.)	
18	and WHITE BIRCH MERGER CO.,)	
	Defendants.)	

IT IS HEREBY STIPULATED by and between PLAINTIFF JEFFREY S. L. CHEAH (“Plaintiff”) and DEFENDANTS FRANK WITNEY, NELSON CHAN, GARY GUTHART, JAMI NACHTSHEIM, RICCARDO PIGLIUCCI, MERILEE RAINES, ROBERT TRICE (collectively, the “Individual Defendants”), and AFFYMETRIX, INC. (collectively, the “Defendants”), (Plaintiff and Defendants are to be collectively referred to as the “Parties”), by and through their attorneys of record, that good cause exists for the Court to accept the following proposed schedule based on the following:

WHEREAS, on March 14, 2016, Plaintiff filed a Class Action Complaint captioned *Cheah v. Affymetrix, Inc., et al.*, Case No. 16-cv-01253-WHO (the “Complaint”) in the United States District Court, Northern District of California for violations of Section 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(a), 78t(a), and SEC Rule 14a-9, 17 C.F.R. 240.14a-9, and breaches of fiduciary duties in connection with the proposed merger between Affymetrix, Inc. and Thermo Fisher Scientific Inc.;

WHEREAS, Defendants’ Answers to the Complaint are due on May 27, 2016;

WHEREAS, the Initial Case Management Conference in this matter is set for June 14, 2016;

WHEREAS, the Parties have reached a preliminary settlement agreement in the above-referenced matter and are currently conducting confirmatory discovery.

WHEREAS, the Parties desire the adjournment of the deadline for any response to the Complaint until after the conclusion of confirmatory discovery;

WHEREAS, the Parties desire the adjournment of the Initial Case Management Conference until after the conclusion of confirmatory discovery;

1 NOW THEREFORE, IT IS HEREBY STIPULATED BY AND AMONG THE PARTIES
2 HERETO, THROUGH THEIR COUNSEL OF RECORD, AND SUBJECT TO APPROVAL OF
3 THE COURT, AS FOLLOWS:

4 1. The Initial Case Management Conference shall be adjourned to a date to be
5 determined by the Court; and

6 2. Defendants' deadline to answer, move to dismiss, or otherwise respond to the
7 Complaint shall be adjourned indefinitely, with the parties to confer on a new deadline in the event
8 that the settlement is not consummated.

9 Stipulated by and between the following:

10 DATED: May 13, 2016

WEISSLAW LLP

11
12 By: /s/ Leigh A. Parker

13 Leigh A. Parker (170565)
14 lparker@weisslawllp.com
15 1516 South Bundy Drive, Suite 309
16 Los Angeles, CA 90025

17 *Attorneys for Plaintiff Jeffrey S. L. Cheah*

18 DATED: May 13, 2016

DAVIS POLK & WARDWELL, LLP

19 By: /s/ Neal A. Potischman

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28 *Counsel for Defendants Affymetrix, Inc., Frank
Witney, Nelson Chan, Gary Guthart, Jami
Nachtsheim, Riccardo Pigliucci, Merilee
Raines, and Robert Trice*

Filer's Attestation

I, Leigh A. Parker, am the ECF user whose identification and password are being used to file this Stipulation and [Proposed] Order for the Adjournment of the Initial Case Management Conference. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

/s/ Leigh A. Parker

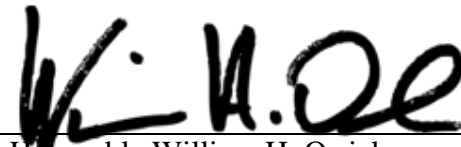
1 IT IS HEREBY ORDERED that

2 1. The Initial Case Management Conference will be adjourned until August 23, 2016.

3 In the event that “confirmatory discovery” has not been completed by that date, the
4 parties shall state in their Joint Case Management Statement the specifics
5 concerning the discovery completed and the anticipated discovery that remains.

6 2. Defendants’ deadline to answer, move to dismiss, or otherwise respond to the
7 Complaint shall be adjourned indefinitely, with the parties to confer on a new
8 deadline in the event that the settlement is not consummated.
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10 DATED: May 16, 2016

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12 _____
13 Honorable William H. Orrick
14 United States District Judge
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